

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	June 10, 2014
Time of Incident:	11:46 P.M.
Location of Incident:	1574 N. Hoyne Ave.
Date of IPRA Notification:	June 11, 2014
Time of IPRA Notification:	6:23 A.M.

On June 10, 2014, at 11:46 P.M., several calls came into the Office of Emergency Management & Communications (OEMC) reporting a black GMC Yukon being driven erratically and striking numerous parked cars as the driver, Subject 1, proceeded north up Leavitt Avenue towards North Avenue. Several civilians flagged down multiple police vehicles and warned them of Subject 1's erratic and possibly intoxicated driving. Officers C and D from Beat XXXX approached Subject 1's vehicle in the eastbound lane of North Avenue at Hoyne Avenue. Officers E and F from Beat XXXX and Officers B and A from Beat XXXX arrived on scene to assist. The officers gave verbal commands to Subject 1 to exit the vehicle and show his hands. Subject 1 refused to comply and remained in his vehicle. Officer F proceeded to break the driver's side window to gain access to the vehicle. Subject 1 still refused to comply with commands and Officer A responded by discharging his OC spray into the vehicle in an attempt to subdue Subject 1. Subject 1 then placed the vehicle into the drive gear and drove across all lanes of North Avenue and struck a garbage can, newspaper boxes, and a bus stop pole on the opposite, north, side of the street.

Seconds later, Subject 1 reversed his vehicle back out onto North Avenue, proceeded to place the vehicle back into the drive gear, revved his engine, and then began driving west towards bystanders and several officers standing near the intersection. At that time, Officer A and Officer B discharged their firearms at Subject 1 and his vehicle. Subject 1 crashed his vehicle into a fire hydrant located on the southwest corner of North Avenue and Hoyne Avenue. A civilian tow truck driver blocked Subject 1's vehicle up against the fire hydrant. Officers on scene broke out the remaining windows of the vehicle, extracted Subject 1 and placed him into custody. Subject 1 was transported to Stroger Hospital where he was treated for multiple gunshot wounds to his lower body.

No allegations were brought against Officers A and B COPA finds that the use of deadly force by Officer A and Officer B was objectively reasonable under Chicago Police Department's

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<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

General Order 03-02-03, Illinois law, and the Fourth Amendment to the United States Constitution.

## **II. INVOLVED PARTIES**

Involved Officer #1:	Officer A; Star #XXXX; Employee #XXXX; Unit XXX; White Male; Beat #XXXX; CPD Start Date: XX XX, 2003.
Involved Officer #2:	Officer B; Star #XXXX; Employee #XXXX; Unit XXX; Asian/Pacific Islander Male; Beat #XXXX; CPD Start Date: XX XX, 2005.
Subject #1:	Subject 1; White Male; DOB: XX XX, 1974

## **III. APPLICABLE RULES AND LAWS**

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### **General Orders**

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The applicable Chicago Police Department General Order is 03-02-03, III,<sup>2</sup> which states that:

- A. [a] sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
  1. To prevent death or great bodily harm to the sworn member or to another person, or;
  2. To prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
    - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
    - b. is attempting to escape by use of a deadly weapon or;
    - c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.
- B. Firing at or into a moving vehicle is only authorized to prevent death or great bodily harm to the sworn member or another person. When confronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle's path.

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<sup>2</sup> This report references the version of General Order 03-02-03 in effect on June 10, 2014.

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The final section of Chicago Police Department General Order 03-02-03, IV, the “Affirmation of Protection of Life Policy,” indicates that sworn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.”

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## Federal Laws

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The Fourth Amendment to the United States Constitution provides in relevant: “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . .” U.S. CONST. amend IV. Determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment’s objective reasonableness standard. *Graham v. Connor*, 490 U.S. 386, 397 (1989). The question is whether the officer’s actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id*; see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer’s use of force is reasonable: (1) “the severity of the crime at issue;” (2) “whether the suspect poses an immediate threat to the safety of the officers or others;” and (3) “whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer’s actions must be grounded in the perspective of “a reasonable officer on the scene, rather than with the 20/20 vision of hindsight” and “allow for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

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## State Laws

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An officer’s ability to confront dangerous situations and use deadly force is further codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to affect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person. . . .

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720 ILCS 5/7-5 (1986).

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## IV. INVESTIGATION<sup>3</sup>

### a. Interviews

#### 1. CPD Officer Statements

In a statement to IPRA on June 11, 2014, Officer C stated that on the date of the incident she was working with her partner Officer D in a full uniform in a marked police vehicle. She and her partner Officer D were responding to a traffic crash and while en route OEMC upgraded the call to a battery in progress. When Officer C approached the scene, she and her partner were flagged down by several witnesses who pointed out Subject 1's vehicle as the offending vehicle. Subject 1's SUV was facing eastbound on North Avenue and was blocked by a civilian tow truck. Officer C and her partner pulled up near the back of Subject 1's vehicle. As Officer C got out of her vehicle with her firearm drawn and approached Subject 1's vehicle, Subject 1 was making frantic gestures inside the vehicle. Subject 1 was reaching for something within his console and attempting to place the vehicle into a different gear. Officer C also recalled Subject 1 revving his engine. Officer C gave verbal commands of "show me your hands" and "stop the vehicle," all of which were ignored by Subject 1. Officer C further indicated that Subject 1 "appeared to be swearing" at the officers repeatedly.

Other officers began to arrive to assist and another officer<sup>4</sup> on scene broke out the driver's side window of Subject 1's vehicle. Subject 1 placed a towel on his head and continued to reach around inside the vehicle as if he were searching for something. At that point another officer<sup>5</sup> discharged his OC spray into the SUV in an attempt to gain control of Subject 1. Subject 1 was covering his face with some type of cloth and the OC spray had no effect.

Officer C further stated that Subject 1 was able to place his vehicle in gear and drive between the marked police vehicle and the tow truck. Subject 1 then drove towards a grocery store on the north side of North Avenue. Subject 1's vehicle struck a trash can, a newspaper stand, and a bus stop pole as he drove onto the sidewalk on the north side of North Avenue across from Hoyne Avenue before his vehicle abruptly stopped. Officer C indicated that the officers continued to give Subject 1 commands to show his hands and exit the vehicle, but he refused. Instead Subject 1 continued to move around erratically within the vehicle.

Officer C stated that Subject 1 then drove backwards onto North Avenue and made a three-point turn with his vehicle now facing west in the middle of North Avenue. While driving in reverse at a high rate of speed, Subject 1's vehicle was moving toward several officers. Subject 1 now in the middle of the street facing west on North Avenue, placed his SUV into drive and began driving west towards multiple officers and civilians, including Officer C. As Subject 1 began to drive forward, Officer C heard multiple gunshots. Officer C observed Officer A fire three shots at

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<sup>3</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>4</sup> Now known to be Officer F

<sup>5</sup> Now known to be Officer A

Subject 1's vehicle. Officer C then watched Subject 1's vehicle strike a fire hydrant on the southwest corner of North Avenue. Officer C indicated during her interview that she did not fire her firearm because her partner was behind Subject 1's vehicle and directly in her line of fire. After Subject 1's vehicle struck the fire hydrant, the civilian tow truck pinned the vehicle in and officers took Subject 1 into custody.<sup>6</sup>

**In a statement to IPRA on June 11, 2014, Officer D** stated that on the date of the incident she was in full uniform and the passenger in a marked police vehicle with her partner Officer C. She and her partner were responding to a traffic crash and while en route OEMC upgraded the call to a battery in progress. When Officer D approached the scene, she and her partner were flagged down by several witnesses who pointed out Subject 1's vehicle. Officer D and Officer C were the first officers to arrive on scene. Officer D first encountered Subject 1 at the intersection of Hoyne Avenue and North Avenue. Subject 1's vehicle was stopped and there was a civilian tow truck<sup>7</sup> waiting near the stopped vehicle. Subject 1's vehicle was perpendicular to Hoyne on North Avenue facing east. Officer D's vehicle was positioned behind Subject 1's vehicle at an angle.

Officer D and her partner exited their vehicle, and Officer D proceeded to the passenger side of Subject 1's vehicle. Her partner, Officer C, proceeded to the driver side of Subject 1's vehicle. Both officers began ordering Subject 1 to show his hands. Officer D indicated that she could not see Subject 1's hands and that his face was covered with a white t-shirt. Subject 1 was not complying with the officers' orders and began reaching towards the floor of the passenger's side of his vehicle. As other officers began to arrive on scene, the civilian tow truck began reversing into the bumper of the subject's vehicle to pin him against the sidewalk. Officer D then indicated that fellow officers began breaking out the windows to Subject 1's vehicle.

Officer D stated that she was told OC spray was deployed, but she did not see it because she was on the other side of the vehicle. Subject 1 was able to free his vehicle from the tow truck pin, and proceeded to drive his vehicle in the direction of the Go Grocer store, striking multiple items in front of the store. Subject 1 then reversed his vehicle in a southeast direction, before placing the vehicle in drive and beginning to move his vehicle in a southwest direction towards both officers and civilians that were located on that corner. According to Officer D she heard Officer A ask if anyone had a taser on them before he fired his weapon.<sup>8</sup>

**In a statement to IPRA on June 12, 2014, Officer A** stated that on the date of the incident he was detailed to the Wicker Park bar unit to investigate license infractions and to report to calls in the area. Officer A was in uniform. He was partnered with Officer B. Officer A and his partner were driving a marked police vehicle and monitoring a traffic accident call that was updated to a battery in progress call involving the driver of the vehicle and citizens. When he arrived on the scene, Officer A exited his vehicle and began to approach a black SUV. As Officer A approached, he observed Officer C on the driver's side of the black SUV with her weapon drawn; while Officer D was on the passenger's side of the black SUV with her weapon drawn. Both Officers C and D were giving verbal commands for the driver of the vehicle to turn the vehicle off and to show his

<sup>6</sup> Atts. 99, 100

<sup>7</sup> The tow truck belonged to Civilian 1 a civilian who was flagged down by citizens prior to the officers' arrival to try to get Subject 1 to stop.

<sup>8</sup> Atts. 97, 98

hands. Officer A approached the driver's side of the black SUV and gave verbal commands, which the driver ignored. An officer<sup>9</sup> standing beside Officer A struck the vehicle driver's side window with a baton and it shattered. Officer A noticed that the door handles on the subject's vehicle were no longer there, and smashing the window was the only way to attempt to open the door.

After the window shattered, Officer A could see the driver with a towel or t-shirt covering his face. Officer A discharged his OC spray, but the OC spray did not have any effect on the subject because his face was covered with the white cloth. Officer A then discharged his OC spray a second time. After Officer A discharged his OC spray the second time, the subject became more hostile and started flailing his arms around and reaching down around his passenger side floor. According to Officer A, other officers on the scene were giving verbal direction to the subject "to show his hands" and "to shut the vehicle off." The subject, having refused those orders, began throwing objects out of the vehicle at the officers. As the subject was throwing objects out the vehicle, he was yelling "I'm gonna XXXX you up, XXXX you." Officer A asked multiple officers on the scene if anyone had a taser, but nobody had one. The subject managed to get his vehicle into gear and began to move forward between a marked police Tahoe and a civilian tow truck. The subject then proceeded to drive north across North Avenue and struck a newspaper stand, garbage can, and pole.

At this point, Officer A made his way around the front of the subject's vehicle and approached the driver's side of the vehicle and continued to give verbal direction to stop the vehicle and exit the vehicle. The subject was attempting to get the vehicle into gear. The subject reversed his vehicle and made a sharp turn into the middle of North Avenue. At this point Officer A was located directly off of the vehicle's left front bumper. Officer A continued to walk backwards and parallel to the vehicle. The subject, now backed up to the center of North Avenue facing west, began to put the vehicle in drive and move forward. At this point Officer A discharged his firearm four times. According to Officer A, he discharged his firearm four times because he feared for Officer B's safety<sup>10</sup> as well as other officers who were in the path of the subject's vehicle as the subject was beginning to drive forward toward them. According to Officer A, there were officers in the street and there were also citizens in the southwest corner where the vehicle was pointed toward. Officer A fired directly north at the driver of the vehicle fearing he would drive his vehicle directly at and into other officers and civilians. Immediately after Officer A discharged his firearm, the subject began to turn his vehicle in a more southwesterly direction and struck a fire hydrant on the corner of Hoyne and North Avenue.

After the subject's vehicle struck the fire hydrant, a civilian tow truck backed up into his vehicle and pinned the subject's vehicle into place. Officer A then evacuated the passenger and driver of the tow truck, and ran to the driver's side of the black SUV. He then used a knife to cut away some of the airbag material, and officers were able to pull the Subject 1 out of the front driver's side window of the vehicle and place him into custody. An ambulance was called and responded to the scene to treat the subject.<sup>11</sup>

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<sup>9</sup> Now known to be Officer F

<sup>10</sup> Officer A stated that Officer B was off the vehicle's "right front bumper" and would have been directly in the vehicle's path if it continued to travel westward.

<sup>11</sup> Atts. 104, 105

In a statement to IPRA on June 12, 2014, Officer B stated he and his partner Officer A were on routine patrol in uniform and in a marked police vehicle near the area of Wabansia and Leavitt when they heard a radio transmission regarding an auto accident with a supplemental battery in progress. As they approached the area of North Avenue and Leavitt, multiple civilians were indicating that the subject was going eastbound on North Avenue. They stopped their police vehicle near North Avenue and Hoyne and exited their vehicle. According to Officer B, he observed other officers, including Officer C, on the driver's side of a black SUV with her gun drawn. Officers were giving numerous verbal instructions to the driver of the vehicle including orders to see his hands and to get out of the vehicle. Officer B drew his weapon and proceeded to give multiple verbal commands. Officer B indicated that the subject was not complying with the officers' commands. At this point another officer<sup>12</sup> removed his collapsible baton and broke the driver's side window of the vehicle. Officer B could see the subject with a white t-shirt over his face. Officer B then heard his partner yell that he was going to spray the guy. Once the subject was sprayed with the OC spray, Officer B was going to extricate the subject, but there were no door handles on the outside of the SUV. The subject failed to comply with the officers' orders and was yelling profanities at the officers. Officer B then heard his partner ask if anybody had a taser. None of the officers on scene had a taser at that time.

The subject inside the black SUV then placed his vehicle in gear and managed to drive between a marked police vehicle and a civilian tow truck, and proceeded across North Avenue where he struck multiple newspaper boxes and a CTA pole. Officer B proceeded to the driver's side of the door and continued to give verbal commands. The subject continued to fail to respond to or acknowledge the verbal commands, and was continuing to manipulate things inside of the vehicle. Officer B could hear the engine revving at this point and the wheels spinning on the black SUV and believed the subject was likely attempting to place the vehicle in reverse. The subject then placed the vehicle in reverse and reversed the vehicle onto North Avenue coming to a stop in the middle of North Avenue facing westbound. Officer B saw the subject manipulating the gear shift and attempting to get the vehicle into drive. The officers continued to give the subject verbal direction to show his hands, turn off the car, and exit the vehicle. The subject ignored those commands and began driving forward from his location in the middle of North Avenue facing westbound. Officer B then heard gunshots, but did not observe who fired the shots. He believed it was his partner who fired the shots because his partner was in that direct area. Officer B heard three to four shots in rapid succession. His partner was standing on the southeast corner of North Avenue and Hoyne.

At the same time Officer B heard the shots, the subject's vehicle was traveling westbound and suddenly made a slight turn toward the southwest corner of North Avenue and Hoyne. Officer B was paralleling the vehicle on the north side of the vehicle and could see the subject as he began to turn the vehicle in a southwesterly direction. Officer B indicated that he discharged his weapon one time as the subject was turning his vehicle in a southwesterly direction toward the corner of Hoyne and North Avenue fearing for the safety of the multiple officers and civilians that were on the southwest corner of Hoyne and North Avenue where the vehicle was turning towards. At that point, the vehicle struck a fire hydrant and came to a stop. Another officer broke out the passenger's side window of the vehicle, and Officer B broke the rear driver's side window. The officers were continuing to give verbal commands to see the subject's hands and to exit the vehicle.

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<sup>12</sup> Now known as Officer F

The subject was not complying and continued to yell profanities at the officers. Officer B then extracted the subject from the vehicle with the help of other Officers and placed him in handcuffs.<sup>13</sup>

**In a statement to IPRA on June 11, 2014, Officer F** stated he was in full uniform partnered with Officer E on June 10, 2014. He and his partner responded to a battery in progress call in a marked police vehicle and were one of the assist units on scene. When Officer F arrived on scene, he observed Officer C on the driver's side of a black SUV and Officer D on the passenger's side. Officer F approached the driver's side of the black SUV. He could hear Officer C telling the driver of the vehicle to show his hands and to shut the vehicle off. Officer F also began ordering the driver to show his hands and to shut the car off. The driver of the vehicle was not complying and kept reaching around inside the vehicle. Officer F also saw that the driver of the vehicle had a towel or shirt over his head. Officer F then smashed the driver's side window to gain access to the vehicle. The driver inside the vehicle kept saying "fuck you," "fuck you."

At that point an officer<sup>14</sup> deployed OC spray into the vehicle. The driver of the vehicle rubbed his face with a shirt or towel and put the vehicle into gear. The driver sped off eastbound and then northbound crashing into a newspaper stand across the street. The driver then started to put the car in reverse and reversed eastbound for approximately 50 to 75 feet onto North Avenue. Finally, the driver put the vehicle into drive and was traveling toward Officer F in a southwesterly direction. The officers all continued to yell "shut the vehicle off" and "show me your hands." Officer F knew there were several civilians on the sidewalk directly behind him. At that point, as the black SUV is moving in a southwesterly direction towards Officer F, Officer A fired at the driver of the vehicle. After Officer A discharged his firearm, Subject 1 crashed into a fire hydrant. Officer F approached the passenger side of the vehicle, in which the air bags had been deployed, and continued to break out the remaining passenger side windows for better visibility of the subject. The driver of the vehicle was then extracted through the driver's side window and handcuffed.<sup>15</sup>

**In a statement to IPRA on June 11, 2014, Officer E** stated he was working with his partner Officer F on the day of the incident in full uniform. They responded to a call in which a car accident escalated to a battery in progress. They pulled up in a marked Tahoe and parked behind Officer C and Officer D's vehicle. Officer E exited his vehicle and started giving the driver of the offending vehicle verbal commands to "exit the vehicle" and to "put the vehicle in park." The subject ignored the commands and kept revving his engine in an attempt to change gears. The subject had a white cloth over his face and continued to reach into the passenger compartments of his vehicle. Officer F broke out the window on the driver's side of the vehicle after the subject continued to fail to comply.

The subject continued to move around and curse at the officers. Officer A discharged his OC spray at the subject. The subject then threw some clothing and a 24oz cup of coke out the window at the officers. The subject then placed the vehicle into drive and accelerated toward the Go Grocer grocery store and struck some items in front of the store, including a CTA pole.

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<sup>13</sup> Atts. 101, 102

<sup>14</sup> Now known as Officer A

<sup>15</sup> Atts. 81, 82

Officer E then noticed the subject's vehicle taillight, indicating the vehicle was going to reverse, come on and the vehicle began to reverse eastbound on North Avenue. Officer E saw the vehicle turn westbound and believed the vehicle was going to move directly toward the path of Officer C; but the vehicle turned slightly in a southwesterly direction toward Hoyne, and then toward several additional officers, including Officer E. Officer E and other officers ran out of the way of the vehicle and he simultaneously heard several shots fired. He then saw the vehicle strike the fire hydrant. Officer E came around toward the driver's door of the vehicle and saw that the subject had already been removed and was handcuffed on the ground and placed into custody.<sup>16</sup>

**In a statement to IPRA on June 11, 2014, Officer G** stated he was in full uniform partnered with Officer H and driving a marked police vehicle on the date of the incident. Officer G was the driver that evening. The officers responded to a battery call in progress near the area of Rockwell and North Avenue. According to Officer G, when he arrived on the scene he observed a dark colored SUV on the northeast corner of Hoyne and North Avenue near a grocery store. There were a bunch of newspaper stands and a garbage can knocked over.

At that point, Officer G parked his vehicle and exited. Officer G noticed that the dark colored SUV started going southwest toward Hoyne. Officer G went to the rear of his vehicle at which time he heard multiple gunshots. Officer G took cover to reassess the situation, when he came back up, the dark colored SUV was against the fire hydrant. Officer G could see several officers around the vehicle attempting to remove the subject from the vehicle. The airbags were deployed on all sides of the vehicle. Officer G approached the front of the vehicle and noticed the subject's hands up in the air and he attempted to alert the other officers that the subject had his hands up in the air. The other officers then took the subject into custody through the driver's side window.<sup>17</sup>

**In a statement to IPRA on June 11, 2014, Officer H** stated he was in full uniform and partnered with Officer G on the evening of the incident. Officer H was in the passenger seat of the marked police vehicle. The officers responded to a battery in progress near the area of Rockwell and North Avenue. When they approached the area of the incident, he saw a large SUV positioned toward a store and it started to reverse onto North Avenue and appeared as if it was going to go westbound on North Avenue. The driver proceeded to reverse very quickly, then started to drive forward quickly, accelerating and turning at the same time in a southwesterly direction. At that point, Officer H stated that he took his gun out of his holster because it looked like the vehicle was going to run into several officers who were near the corner of Hoyne and North Avenue. Officer H stated it looked like a couple of female officers and Officer B were going to be run over by the SUV. According to Officer H, as the subject's SUV was traveling backwards, Officer B was back pedaling telling the driver to stop. Other officers were screaming orders at the subject, but Officer H was unable to decipher those orders in all the chaos of the incident. Officer H stated he heard gunshots but did not observe them. Officer H and several other officers then broke the windows out of the vehicle and pulled the subject out and handcuffed him on the ground.<sup>18</sup>

## 2. Civilian Statements

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<sup>16</sup> Atts. 79, 80

<sup>17</sup> Atts. 75, 76

<sup>18</sup> Atts. 77, 78

In a statement to IPRA on June 11, 2014, Civilian 2 stated on the date of the incident he was sitting on the couch at his friend Civilian 3's apartment when he heard an unfamiliar noise outside. Civilian 3 resides at XXXX Hoyne Avenue, which is directly in front of where this incident transpired. As Civilian 2 looked out a closed window, he saw a black SUV<sup>19</sup> on the southwest corner of Hoyne and North Avenue facing northeast, with officers surrounding the vehicle. Civilian 2 stated that he saw the driver<sup>20</sup> of the SUV reaching into the back-passenger compartment of the vehicle. Civilian 2 assumed the driver was reaching towards the back-passenger compartment to retrieve a weapon because there were multiple officers with their weapons drawn. Civilian 2 heard officers shouting commands at the subject in the SUV, but could not make out those commands other than "put your hands on the steering wheel." He indicated that the driver of the SUV was not following the officers' commands. According to Civilian 2, there was one officer in a blue shirt that was tapping the vehicle's windows with what looked to be a nightstick. The driver then turned around and threw two articles of clothing out of the driver's side window, the driver of the SUV then placed the vehicle in drive and maneuvered between a civilian tow truck and a police SUV. The driver drove directly towards the XXXX Hoyne Avenue building and into the bottom floor. Civilian 2 believed that the vehicle came into the bottom floor of the building, but later learned that the SUV struck a pole and newsstand and not the building itself. Civilian 2 noticed several officers trying to come toward the vehicle to confine it again.

After a matter of seconds, the driver of the SUV reversed his vehicle into the middle of North Avenue into what appeared to be a U-shape maneuver. The driver of the vehicle paused the vehicle again for a matter of seconds. He then put the vehicle in drive and accelerated straight forward towards a bike rack which was directly to the left of the southwest corner where Civilian 2 first viewed the vehicle. Within seconds of the driver accelerating, an officer on the southeast corner in front of the Middle Eastern restaurant opened fire on the vehicle. Civilian 2 believed he heard four or five gunshots. After the driver hit the bike rack, the tow truck driver backed his vehicle into the back of the SUV and pinned him in. The police then surrounded the vehicle, smashed the windows out and pulled the driver out of the vehicle.<sup>21</sup>

In a statement to IPRA on June 11, 2014, Civilian 3 stated on the date of the incident he was headed to bed when he heard an unfamiliar noise and looked out his window at XXXX Hoyne Avenue. Civilian 3 stated that he saw an SUV<sup>22</sup> facing north on North Avenue. He also observed a civilian tow truck and marked police vehicles surrounding the SUV. Civilian 3 then observed an officer approach the vehicle and provide the driver<sup>23</sup> commands. Civilian 3 could not make out the commands at the time, but could tell the driver was not obeying the commands. The officer<sup>24</sup> then sprayed OC spray into the SUV, but the driver seemed unaffected and threw some clothing out of the driver's side window. The driver then put the SUV in drive and drove directly into the building at XXXXX Hoyne Avenue. Civilian 3 later learned that the driver struck a pole below his apartment, but did not strike the grocery store that is located on the first floor of the building.

<sup>19</sup> Now known as Subject 1's vehicle

<sup>20</sup> Now known as Subject 1

<sup>21</sup> Atts. 28, 30

<sup>22</sup> Now known as Subject 1's vehicle

<sup>23</sup> Now known as Subject 1

<sup>24</sup> Now known as Officer A

According to Civilian 3, multiple officers began approaching the vehicle, but the driver put the car in reverse and did a three-point turn out into the middle of North Avenue. The driver then placed the SUV in drive and accelerated towards the southwest corner of Hoyne and North Avenue towards a group of officers who were on the southwest corner. Civilian 3 stated he then saw an officer in the southeast corner of Hoyne and North Avenue fire shots into the SUV to defend officers standing on the southwest corner as the SUV was approaching them. The black SUV then accelerated and struck a bike rack on the southwest corner of Hoyne and North Avenue. The vehicle was stopped by the bike rack and a civilian tow truck backed into the rear of the SUV to pin it in. Civilian 3 then saw multiple officers surround the SUV, break out the windows and eventually pull the driver out of the vehicle and arrest him.<sup>25</sup>

**In a statement to IPRA on June 11, 2014, Civilian 4** stated on the date of the incident he was working in his home office at XXXX N. Hoyne. Civilian 4 heard yelling outside of his home and immediately went to the window. According to Civilian 4, he looked outside his office window and saw a female officer in the crosswalk of Hoyne and North Avenue with her gun drawn. Civilian 4 further saw the front half of an SUV<sup>26</sup> and a civilian tow truck. Civilian 4 heard the female officer yelling at the driver<sup>27</sup> inside the SUV to put his hands on the steering wheel multiple times. Civilian 4 stepped away from the window for about four seconds, when he ran back to the window the officers were still yelling at the driver of the vehicle.

The SUV then darted across the street and struck a newspaper stand, bus pole and garbage can. The SUV then did a three-point turn into the middle of North Avenue, and the officer moved from the crosswalk to another angle in the street and continued to yell orders at the driver inside the SUV. The driver paused for a minute, but then Civilian 4 could hear the engine revving and saw the vehicle start moving. Civilian 4 believed the driver was attempting to escape. Civilian 4 heard a shot and then Civilian 4 hit the ground. Civilian 4 did not witness the shooting. He did hear multiple other gunshots. He crawled into his bedroom and came back out after a matter of minutes to see the driver on the ground outside of the vehicle and handcuffed.<sup>28</sup>

**In a statement to IPRA on June 12, 2014, Civilian 5** stated on the date of the incident he was sitting on his couch in his home at XXXX North Hoyne, Apartment XX when he heard a loud noise and shouting outside his home. He heard loud crunching sounds and later learned that an SUV<sup>29</sup> was striking parked vehicles on his street. He then got up and went to the window that faced Hoyne. Civilian 5 heard and witnessed a uniformed female officer shout “show me your hands” and give other verbal commands he could not decipher. The officer’s gun was drawn and pointed at the southwest corner of Hoyne and North Avenue.

Civilian 5 then saw a large black SUV dart out from the southwest corner of Hoyne and North Avenue and drive quickly across the street into some garbage cans and a newspaper stand that was in front of a grocery store. The female officer started walking toward the SUV while still

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<sup>25</sup> Atts. 32, 34

<sup>26</sup> Now known as Subject 1’s vehicle

<sup>27</sup> Now known as Subject 1

<sup>28</sup> Atts. 36, 37, & 40

<sup>29</sup> Now known as Subject 1’s vehicle

yelling “show me your hands.” Civilian 5 stated that he heard other officers yelling commands as well, but he could not identify what they were ordering the occupant<sup>30</sup> of the SUV to do. As the female officer was walking towards the rear of the SUV, the SUV started to reverse towards the officer and turn into the middle of North Avenue facing southwest towards Civilian 5’s building.

The female officer he originally saw was still in the middle of the street at about Hoyne and North Avenue. The SUV driver then proceeded to step on the gas and drive at a high rate of speed directly towards the area where the initial female officer was standing. The female officer took a few steps back to attempt to avoid the SUV. As the SUV came forward, Civilian 5 heard one gunshot and then stepped away from the window. Civilian 5 then believed he heard two more gunshots. When Civilian 5 went back to the window, he saw the female officer along with a uniformed male officer approaching the SUV with their guns drawn. The male officer then broke out one of the windows of the vehicle. Civilian 5 then saw the driver of the SUV being pulled to the ground and being handcuffed.<sup>31</sup>

In a statement to IPRA on June 12, 2014, Civilian 6 stated at the time of the incident he was inside his home at XXXX N. Leavitt Avenue with his girlfriend, Civilian 7. According to Civilian 6, on the date of the incident he heard a noise that sounded like a car crash and he looked outside. He observed a black SUV<sup>32</sup> crashing into parked vehicles on Leavitt Avenue. He told his girlfriend to call the police and he ran outside to try to stop the SUV. The windows of the SUV were rolled up and Civilian 6 tapped on the window to try to get the driver<sup>33</sup> to stop. Civilian 6 also tried to open the door, but the door was locked. The driver of the SUV continued to drive down the street, where he proceeded to drive north on Leavitt and then proceeded east on North Avenue. Civilian 6 described the driver as appearing to be under the influence of alcohol or drugs or possibly mentally ill. Civilian 6 ran after the SUV and continued to tap on the window. According to Civilian 6, the SUV would transition from fast to slow speeds throughout the incident.

When the officers arrived on scene, Civilian 6 and other people informed the officers that the driver of the SUV was not listening to anyone and was driving erratically. The officers drew their weapons and told the driver of the vehicle to get out of the vehicle and to show his hands. The driver of the vehicle was not complying. According to Civilian 6, one officer cracked the window with a utility hammer and discharged OC spray at the driver. Civilian 6 could not make out anything the driver was saying except he heard the driver say “no.” According to Civilian 6, the driver was still not complying and was moving his hands all over the place inside the vehicle and banging his hands on the steering wheel. At one point, the driver threw pop and a bag containing food out of the driver’s side window at the officers. The officers continued to order the driver to exit the vehicle and show his hands. One officer popped the left driver’s side tire. The driver of the vehicle then drove across North Avenue and into the corner grocery store called ‘Go Grocer.’ Civilian 6 was not sure if the driver hit the grocery store head on or not, he just heard a loud bang. Civilian 6 stated that he thought the driver would hurt somebody if not stopped. Civilian

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<sup>30</sup> Now known as Subject 1

<sup>31</sup> Atts. 71, 74

<sup>32</sup> Now known to be Subject 1’s vehicle

<sup>33</sup> Now known as Subject 1

6 thought that if he or other witnesses got in front of the SUV they would be run over. At some point the airbags inside the SUV deployed on the driver's side of the vehicle.

The driver of the SUV then turned his front wheels to his left and began to move forward in an attempt to make a U-turn to head west on North Avenue. Civilian 6 stated that he heard shots, a split second passed and Civilian 6 heard two more shots. Civilian 6 stated that he heard a total of four shots. Civilian 6 observed officers reach into the front driver's side door to open it. Other officers were telling Civilian 6 and other civilians to stand back. Civilian 6 did not observe which officer shot at the driver, but he thought only one officer was firing. In Civilian 6's opinion, if the officer would not have fired, officers and potentially civilians in the path of the SUV would have been struck.<sup>34</sup>

One **Certified Letter** was sent to Subject 1 at his address in Michigan, informing him that IPRA was investigating the incident that occurred on June 10, 2014, and requesting him to call IPRA to arrange an appointment for him to be interviewed. There was no response from Subject 1<sup>35</sup> and no subsequent interview. The letter was delivered by USPS on July 19, 2014.<sup>36</sup>

In a **To-From Report**, IPRA investigator A drafted a report in regard to attempting to interview Civilian 1 and Civilian 8. According to the report, the investigator called Civilian 1 on June 11, 2014, and was informed that he and his wife, Civilian 8, were working. Civilian 1 related that they would be available to be interviewed on June 12, 2014. On June 12, 2014, IPRA investigators A and B went to Civilian 1's address and placed a business card in his mailbox.<sup>37</sup>

**Certified Letters** were sent to Civilian 8 and Civilian 1 informing them that IPRA was investigating the incident that occurred on June 10, 2014, and requesting them to contact IPRA in order to give a statement. The letters were returned as undeliverable.<sup>38</sup>

In a **To-From Report**, IPRA investigator A drafted a report in regard to a telephone interview he conducted with Civilian 9. According to the report, Civilian 9 related she called 911 after witnessing part of the incident. Civilian 9 stated that she ran outside of her residence on Leavitt after her roommate ran outside. Civilian 9 saw a black SUV drive north on Leavitt and strike parked vehicles as if it was a "pinball." Two tow trucks tried to block the SUV's path.<sup>39</sup> A male tried to get the SUV driver's attention by hitting the SUV with an object shaped like a baseball bat. The SUV turned east on North Avenue. Seconds later, squad cars arrived in the area and Civilian 9 heard four or five gunshots, but did not see anyone fire a weapon.<sup>40</sup>

## Digital Evidence

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<sup>34</sup> Att. 65

<sup>35</sup> Subject 1 was interviewed by detectives at Stroger Hospital on June 11, 2014, which is summarized later in this report as part of the detective's supplemental report.

<sup>36</sup> Att. 107

<sup>37</sup> Att. 59

<sup>38</sup> Atts. 109, 110, 111, & 112

<sup>39</sup> Witness Civilian 9 is the only person who reports seeing two tow trucks. All other evidence indicates only one tow truck was involved in this incident.

<sup>40</sup> Att. 60

1. Photographs

The **Evidence Technician's Photographs**, taken on June 10, 2014, depict the damaged cars, the shell casings, the damage to Subject 1's SUV, and the final resting place of Subject 1's SUV. A sample of the photographs of the scene is below.<sup>41</sup>

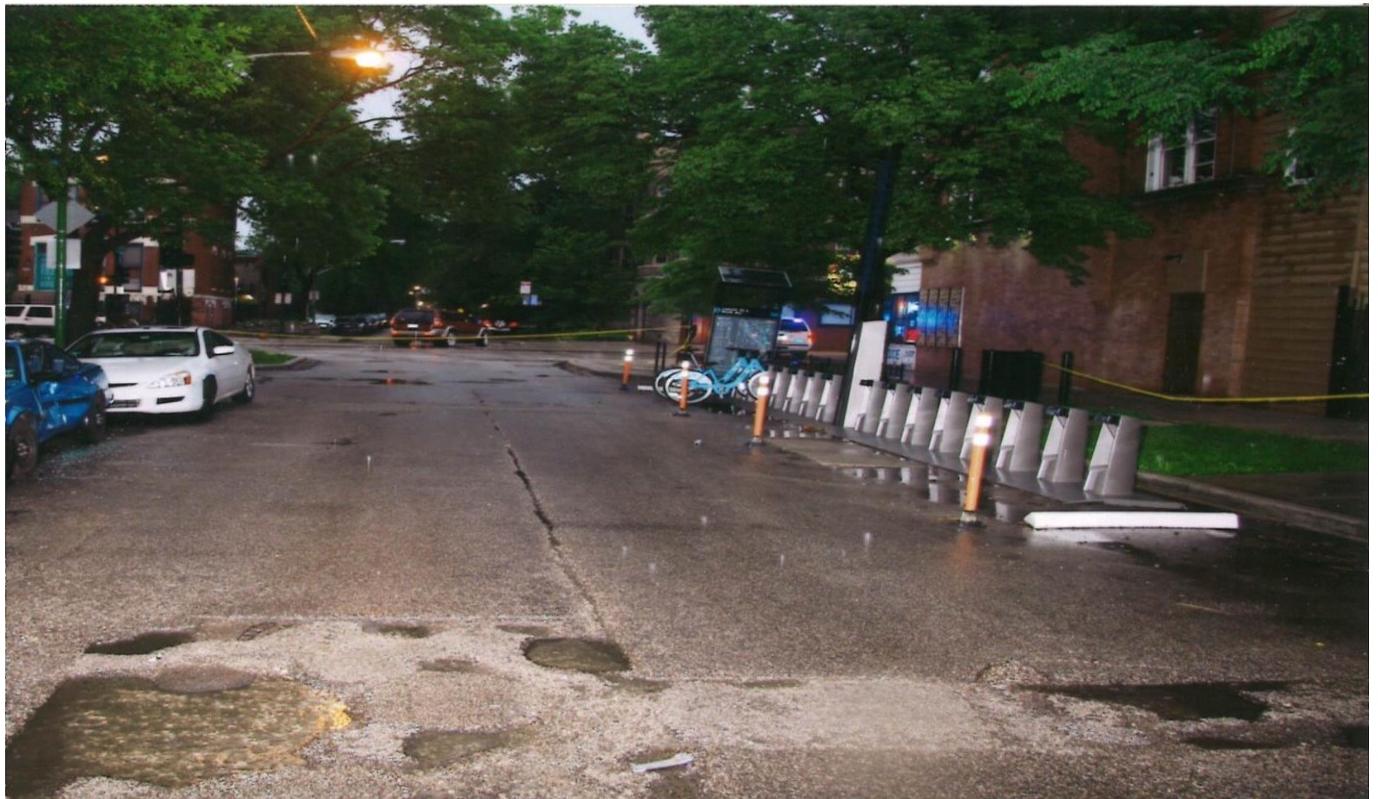


Figure 1-This picture depicts damage to a car caused by Subject 1's SUV.<sup>42</sup>

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<sup>41</sup> Att. 122

<sup>42</sup> Photo taken by Evidence Technician in regards to RD#HX2XXXXX, in envelope 1 of 5



Figure 2- This picture depicts damage to a car caused by Subject 1's SUV.<sup>43</sup>



Figure 3- This picture depicts the final resting place of Subject 1's vehicle and its condition.<sup>44</sup>

<sup>43</sup> Photo taken by Evidence Technician in regards to RD#HX2XXXXX, in envelope 1 of 5

<sup>44</sup> Photo taken by Evidence Technician in regards to RD#HX2XXXXX, in envelope 2 of 5



Figure 4- This picture depicts the evidence markers used to identify the location of the spent shell casings from Officer A's weapon.<sup>45</sup>

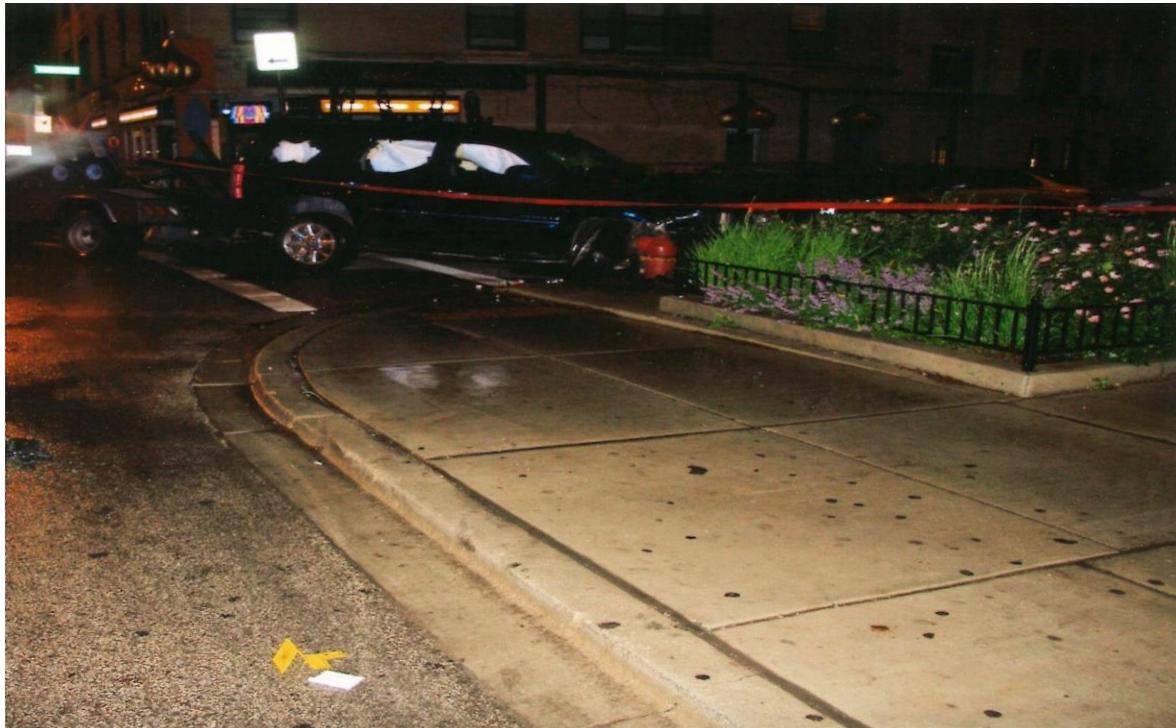


Figure 5- This picture depicts the evidence marker used to identify the location of the spent shell casing from Officer B's weapon.<sup>46</sup>

<sup>45</sup> Photo taken by Evidence Technician in regards to RD#HX2XXXXX, in envelope 4 of 5

<sup>46</sup> Photo taken by Evidence Technician in regards to RD#HX2XXXXX, in envelope 4 of 5



Figure 6- This picture depicts the damage done in front of Go Grocer store by Subject 1's SUV.<sup>47</sup>

## 2. Video Evidence

Civilian 3's video was recorded on a cell phone<sup>48</sup> and includes the cell phone owner's commentary regarding what was occurring as he filmed the video.

The video begins as the incident is already underway. The video depicts a black SUV surrounded by two police trucks on one side and a civilian tow truck on the other side. There are also numerous police officers out of their vehicles and surrounding the black SUV.<sup>49</sup> One officer appears to be puncturing the SUV's tires at 00:10 seconds into the video. He makes stabbing motions at the two back tires and as he comes up towards the front passenger side tire, the SUV starts to take off going in between the tow truck and the two parked police vehicles at 00:19 seconds.

The SUV drives out of frame<sup>50</sup> and begins to reverse back into the frame at 00:32 seconds. The video from 00:35 to 00:37 depicts an officer running along the front and the driver's side of the SUV as it is reversing and SUV appears to begin to straighten itself out and proceeds to drive forward at 00:40 seconds. The officer<sup>51</sup> who was running along the front of the SUV appears to begin to open fire at the SUV at 00:39 seconds. The SUV then begins to drive as the officer is

<sup>47</sup> Photo taken by Evidence Technician in regards to RD#HX2XXXXX, in envelope 4 of 5

<sup>48</sup> Civilian 3 took the video

<sup>49</sup> Now known to be Subject 1's vehicle.

<sup>50</sup> At this point in the video, the SUV is crashing into the newspaper stands and pole that is in front of Go Grocer, but you cannot see this depicted in the video.

<sup>51</sup> Officer A

firing upon the SUV and the SUV hits a fire hydrant at 00:39 to 00:45 seconds. At that point, the tow truck reverses up against the SUV pinning the SUV between the hydrant and the tow truck at 00:51 seconds. The tow truck driver exits the tow truck at 01:00 minute. Officers begin to break out the windows on the passenger side of the SUV and the back window at 01:07 minutes. The officers then break out the remaining windows on the driver's side of the SUV. Several officers pull Subject 1 from the driver's side window out of the SUV and onto the ground at 02:22 minutes. The video ends at 02:43 minutes.

Civilian 2's video depicts<sup>52</sup> the same incident as described above, except the second video is longer. The first video ends when Subject 1 is taken out of the car and placed on the ground. The second video depicts Subject 1 still on the ground and several officers surrounding him.

There are also three shorter videos taken by Civilian 2 that show the scene after the incident took place. The first shorter video depicts several officers standing around Subject 1's SUV. The second shorter video similar to the first shorter video. The third shorter video depicts an ambulance on scene and numerous squad cars on scene.<sup>53</sup>

Additionally, there are several videos from Go Grocer security cameras which all depict the same scene, but from different angles. The videos depict the outside of the store and the camera is aimed at the sidewalk area. The material part of the first video begins at 01:38 seconds. The video depicts the front end of a dark colored SUV crash into some newspaper stands, a pole, and a garbage can. The video then depicts the SUV back up onto the street.<sup>54</sup>

There is also dash cam video from a CPD vehicle that arrived on the scene after the incident was over. The dash cam has no relevant footage on it.<sup>55</sup>

### 3. Audio Evidence

The **Office of Emergency Management and Communications (OEMC)** audio was collected and made a part of this case file. The following is a summary of the relevant audio recordings.

On the date of the incident, multiple civilians called 9-1-1 indicating that a black SUV was driving erratically and crashing into cars near the area of LeMoyne and Leavitt Street, as well as North Avenue and Hoyne Avenue. Some callers indicated the driver of the vehicle appeared to be either intoxicated or under the influence of other drugs. The vehicle continued to crash into parked vehicles on the street and was driving the wrong way, North, down Leavitt Street. The operator continually informed the 9-1-1 callers that the police had been dispatched to the area.

Additional 9-1-1 callers indicated that a tow truck was attempting to pin the truck in while multiple civilians attempted to stop the driver from proceeding. Finally, multiple callers indicated they heard several gunshots and people screaming near the area of North Avenue and Hoyne. One

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<sup>52</sup> Civilian 2 took the video

<sup>53</sup> Att. 115

<sup>54</sup> Att. 118

<sup>55</sup> Att. 117

caller reported that she heard 4-5 gunshots in the area. Two other callers indicated they heard approximately 3-4 gunshots.<sup>56</sup>

### b. Physical Evidence

#### 1. Illinois State Police (ISP) Forensic Laboratory Report

The **ISP Laboratory Report**, RD#HX2XXXXX, dated July 21, 2014, documents the examination of Officer A's and Officer B's weapons. Both officers' weapons were received as operable and were test fired. The report further details that four bullets were fired from Officer A's weapon and one bullet was fired from Officer B's weapon.<sup>57</sup>

#### 2. Chicago Fire Department (CFD) Records

A **Chicago Fire Department Report**, recorded as incident #14XXXXXX, indicated that Firefighter/Paramedics Paramedic A and Paramedic B were dispatched to the scene of the incident and found the patient lying prone in the street in handcuffs. The report indicates that the patient was shot multiple times in the left thigh and he was agitated and appeared to be under the influence of an unknown substance. The report reiterates that the patient was difficult to assess and treat due to his combativeness, and that the patient was speaking in nonsensical sentence fragments. The report further indicates that the patient was transported to the nearest trauma center and released to staff with no further incident.<sup>58</sup>

#### 3. Medical Records

According to **medical records** obtained from Cook County Health & Hospitals Systems for Subject 1, he was admitted on June 11, 2014, and discharged on June 12, 2014. According to the report, Subject 1 arrived boarded from the field by authorities, intoxicated and uncooperative with multiple gunshot wounds after a low speed motor vehicle crash and presumed loss of consciousness. The reports also indicated the following: there were 6 gunshot wounds: posterior left thigh, posteromedial left thigh, posteromedial right thigh, right lateral thigh with retained missile in close proximity, and 2 wounds in the lower back.<sup>59</sup>

### c. Documentary Evidence

#### 1. Crime Scene Processing Reports

The Chicago Police Crime Scene Processing Report, completed on June 11, 2014, recorded as Report Number 25XXX, lists evidence collected on scene and inventoried. The report lists one CPD pellet envelope, containing an unknown caliber fired bullet with red stains (suspect blood), which was collected by Evidence Technician A at Cook County Stroger Hospital.<sup>60</sup>

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<sup>56</sup> Atts. 116, 132-156

<sup>57</sup> Att. 128

<sup>58</sup> Att. 10

<sup>59</sup> Att. 121

<sup>60</sup> Att. 11

The Chicago Police Crime Scene Processing Report, completed on June 11, 2014, recorded as Report Number 25XXX, lists evidence collected on the scene and inventoried. Such items include, but are not limited to, one Beretta 8000D 9mm semi-automatic weapon recovered from Officer A. One Beretta magazine marked 15 capacity and one swab box containing two swabs used to swab the grip and slide of a Beretta. One Sig P239 9mm semi-automatic weapon recovered from Officer B, one Sig Saur magazine marked 8 capacity, and one swab box containing two swabs used to swab the grip and slide area of Officer B's weapon. Three (3) expended shells were recovered from the sidewalk cement at 2059 W. North Avenue (markers 1, 2, and 3). One (1) expended shell was recovered from the street pavement at 2059 W. North Avenue, under the tow truck by the driver side front tire (marker 4). One (1) expended shell was recovered from the street pavement near the curb at 2101 W. North Avenue (marker 5). There were also video and photos taken of the crime scene.<sup>61</sup>

The Chicago Police Crime Scene Processing Report, completed on June 11, 2014, recorded as Report Number 25XXXX, lists evidence collected on the scene and inventoried. The report lists one (1) fired bullet recovered from inside an Apple iPhone box inside the center console of black GMC Yukon and the Apple iPhone box itself.<sup>62</sup>

The Chicago Police Department **eTrack Inventory Item Inquiry, RD#HX2XXXX** documents the recovery date and inventory numbers of all evidence recovered during the investigation. This evidence includes, the officers' weapons, expended shell casings, CD containing footage from Go Grocer, CD containing footage from XXXX W. North Avenue and other biological items.<sup>63</sup>

## 2. Tactical Response Reports/Officer Battery Reports

**Tactical Response Reports were completed by Officers B, A, C, E, and F** which all indicated that Subject 1 attempted to use the vehicle as a weapon and used force likely to cause death or great bodily harm.<sup>64</sup> Officer B indicated that he fired one shot.<sup>65</sup> Officer A indicated he fired four shots.<sup>66</sup>

**Officer's Battery Reports were completed by Officers B, A, C, E, and F** which all indicate that Subject 1 attempted to use the vehicle as a weapon and attempted to strike an officer with the vehicle.<sup>67</sup>

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<sup>61</sup> Att. 12

<sup>62</sup> Att. 13

<sup>63</sup> Att. 14

<sup>64</sup> Atts. 19, 21, & 23

<sup>65</sup> Att. 15

<sup>66</sup> Att. 17

<sup>67</sup> Atts. 16, 18, 20, 22, & 24

### 3. Case Reports

The **Original Case Incident Report**, RD#HX2XXXX, lists Subject 1 as a suspect and lists the officers involved.<sup>68</sup> The charge is listed as Assault-aggravated PO: Other Dangerous Weapon. The narrative states “see detective supp.”<sup>69</sup>

The **Chicago Police Department Arrest Report for Subject 1** states that Subject 1 was arrested on June 10, 2014, at 2101 W. North Avenue for five counts of failure to notify damage on unattended vehicle, one count of operating a motor vehicle without insurance, five counts of aggravated assault of an officer with a motor vehicle and one count of driving the wrong way on one-way street.<sup>70</sup>

The **Chicago Police Department Case Supplementary Report**, RD#HX2XXXX (part 1), submitted by Detective A #XXXX on September 5, 2014 lists three Traffic Crash Reports (RD#HX2XXXX, HX2XXXX, & HX2XXXX). The report also documents Officers A, B, C, F, and E as victims and Subject 1 as being in custody. Subject 1 was admitted to Stroger Hospital for two gunshot wounds to his buttocks, two gunshot wounds to his left leg and two gunshot wounds to his right leg. The location of incident is listed as 2101 W. North Avenue.

The evidence collected includes, but is not limited to, a CD containing footage from 2101 W. North Avenue; a CD containing footage from GO Grocer store located at 2060 W. North Avenue and one CD containing 911 calls and OEMC dispatch recordings; two broken door handles, one located at 1547 N. Leavitt on the sidewalk and one located at 1549 N. Leavitt in the street; five expended shell casings, three recovered from sidewalk at 2059 W. North Avenue, one recovered from street at 2059 W. North Avenue, and one recovered from the street at 2101 W. North Avenue.

The report also lists civilian witnesses as Civilian 1, Civilian 8, Civilian 3, Civilian 2, Civilian 4, and Civilian 5. Reporting Detectives were assigned to this police involved shooting by Sergeant A. Detectives responded to the area of North Avenue and Hoyne Avenue. The investigation revealed that this case began when Subject 1 drove a GMC Yukon and struck five parked vehicles. The first vehicle was struck at approximately 2211 W. LeMoyne Street. Subject 1 was traveling eastbound on LeMoyne Street when he struck the first car. Subject 1 then turned left and drove northbound on Leavitt St. The second car Subject 1 struck was parked at approximately 1537 N. Leavitt St. The third car was parked at 1539 N. Leavitt Street. The fourth car was parked at approximately 1528 N. Leavitt, and the fifth car was parked at approximately 1548-50 N. Leavitt St. The investigation revealed that several citizens attempted to stop Subject 1 in his GMC Yukon while he was in the process of striking the parked cars on Leavitt Street, but were unsuccessful.

Reporting Detectives also interviewed Officers A, B, C, D, F, E, H, and G on June 11, 2014 at Area North<sup>71</sup>. According to Officer A, he and his partner, Officer B, responded to a traffic

<sup>68</sup> Officers F, B, A, C, E, D, and H.

<sup>69</sup> Att. 6

<sup>70</sup> Att. 9

<sup>71</sup> Area North is a police station

accident in which multiple vehicles were struck in the area of North Avenue, and Leavitt St. They continued to respond to a battery in progress in the same area. When they arrived at the area, Officer A observed citizens on North Avenue running and pointing eastbound toward a black SUV. Officer A stopped their marked vehicle and approached the SUV which was stopped eastbound on North Avenue. Officer A approached on the driver's side. Officer C was also on the driver's side and Officer D was on the passenger side. The officers were telling the driver<sup>72</sup> of the SUV to turn off the car and show his hands. The driver would not comply with the officers' commands. Officer F broke the driver's side window of the SUV with his expandable baton.

Officer A related that Subject 1 put a towel or a t-shirt on his head and he was reaching for the gear shift, trying to put the vehicle in gear. Officer A used his pepper spray on Subject 1, but the pepper spray had no effect on him so he sprayed Subject 1 a second time. Subject 1 became hostile and started reaching to his right and into the backseat. Subject 1 then started throwing objects at the officers. Officer A continued to give Subject 1 commands.

Subject 1 put the SUV in gear and accelerated between a marked CPD vehicle and a civilian tow truck, and drove into a grocery store<sup>73</sup> across the street. As Officer A approached the SUV across the street, Subject 1 still had a towel on his head. Officer A ordered Subject 1 to stop the vehicle and show his hands. According to Officer A, Officer B was to his left and in the street. Subject 1 drove in reverse back onto North Avenue. Officer A was by the SUV's front left bumper. Officer A was trying to create distance between himself and the SUV; he was parallel to the SUV driver's door which was now going westbound on North Avenue. Officer A fired his weapon four times at Subject 1 in fear that the SUV was accelerating toward Officers B and C. Subject 1 then turned the SUV southwest into the corner of Hoyne Avenue and North Avenue and drove into a fire hydrant. Officer A used a knife to cut the side airbags and Subject 1 was still resisting. Subject 1 was finally handcuffed and an ambulance was called for him which arrived within minutes.

Officer B related in essence the same thing his partner, PO Officer A stated. Officer B added that the offending SUV backed up eastbound on North Avenue and that he thought Officer D was in that area. Officer B related that Officer A was in the intersection while Subject 1 was backing the vehicle up. Officer A was on the driver side and Officer B was near the passenger side when Subject 1 put the SUV in gear and accelerated forward. Officer B heard three to four gunshots coming from the direction of Officer A. According to Officer B, the offending SUV then made a quick left turn in the direction of Officer C and other officers to his right, near the southwest corner of Hoyne Avenue and North Avenue. Officer B related that he ran parallel to the offending SUV on the passenger side. Fearing for the life of Officer C and the other officers near the southwest corner, Officer B fired one shot at Subject 1.

Officer C related in essence the same thing as Officer A. Officer C added that she and her partner Officer D responded to a traffic crash and while in route a battery in progress call came in. When Officer C approached the scene, the black SUV was facing eastbound on North Avenue and was blocked by a civilian tow truck. Subject 1 put the SUV in drive and drove between her squad car and the tow truck. Subject 1 drove quickly towards the grocery store on the north side of the street. Subject 1 struck a trash can and newspaper stand with his SUV. Officer C was in the middle

<sup>72</sup> Now known as Subject 1

<sup>73</sup> The vehicle never entered the store, it hit items in front of the store

of North Avenue when Subject 1 quickly reversed his SUV. She thought other officers were to the east of the SUV. Subject 1 did a three-point turn and drove toward her to the west on North Avenue. Officer C heard gunshots and saw Officer A shoot his duty weapon. Officer C moved to her right, south, because she thought the offending SUV was going west on North Avenue, but Subject 1 turned southwest in her direction. Subject 1 then hit a fire hydrant and the tow truck pinned the SUV against the fire hydrant.

Officer D related in essence the same thing as Officer A and other officers at the scene. Officer D added that when she and her partner arrived on the scene, the offending SUV was already blocked by a civilian tow truck and she and Officer C pulled in behind the offending SUV. The tow truck backed up and the offending SUV began spinning its tires. Subject 1 was yelling, "fuck you, fuck you" to the officers on scene. Officer D related that Subject 1 then drove the SUV into the store<sup>74</sup> on the north side of North Avenue. Officer D saw Officers A, B, E, F, and C in the street. Officer D started to head to the southeast corner of Hoyne Avenue and North Avenue for cover. Officer D related that Subject 1 backed the SUV onto North Avenue and began to drive westbound on North Avenue. According to Officer D she knew Officer C was to the west on North Avenue and in danger. Officer D related the offending SUV turned into the southwest corner of North Avenue and Hoyne Avenue and there were officers and citizens in the way of the SUV.

Officer F related in essence the same thing as Officer A and other Officers at the scene. Officer F responded to the scene with his partner Officer E. He stopped behind the black offending SUV. Officer F approached the offending SUV on the driver's side. Officer F broke the driver's side window with his baton and Officer A sprayed pepper spray. After the pepper spray, Subject 1 put the SUV in drive and crashed into the grocery store<sup>75</sup> across the street. Officer F approached the SUV but then backed away. Subject 1 went westbound on North Avenue and then southwest in Officer F's direction. Officer F related that Officer C and citizens on the corner were in the path of the offending SUV.

Officer E related in essence the same thing as Officer A and other officers at the scene. Officer E related that Officers C, B, and F were all trying to get out of the way of the offending SUV. Officer E related that the SUV backed up eastbound on North Avenue, then drove westbound on North Avenue towards Officer C. Subject 1 then turned the SUV toward Hoyne Avenue in his direction and the other officers on the southwest corner of Hoyne Avenue and North Avenue. Officer E stated that there were also civilians on the southwest corner of Hoyne Avenue and North Avenue.

Officer H related in essence the same thing as Officer A and other officers at the scene. Officer H added that it looked like the offending SUV was going to "ram" some people. Officer H also related that the SUV turned southwest towards Hoyne Avenue where officers were "back tracking" to get out of the way of the SUV.

Officer G related in essence the same thing as Officer A and other officers at the scene.<sup>76</sup>

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<sup>74</sup> The vehicle never entered the store, it hit items in front of the store

<sup>75</sup> The vehicle never entered the store, it hit items in front of the store

<sup>76</sup> Att. 178

The Chicago Police Department Case Supplementary Report, RD#HX2XXXXX (part 2) submitted by Detective A #XXXXXX on September 5, 2014, documents interviews with witnesses, Civilian 1, Civilian 8, Civilian 3, Civilian 2, Civilian 4, Civilian 5 which all occurred on June 11, 2014 at Area North. Subject 1 was also interviewed on June 11, 2014, at Stroger Hospital Emergency Room #3. Stroger Hospital personnel advised the reporting detectives that the prescription drug [protected health information redacted] was found in Subject 1's blood stream. Subject 1 also signed a consent to search form for his GMC Yukon. Detectives found one empty pill bottle and four bottles of miscellaneous prescription bottles all prescribed to Subject 1. Sergeant B also came to Area North Headquarters after hearing about the incident to give a statement to Detectives.

**Subject 1** was interviewed by detectives at Stroger Hospital on June 11, 2014, at 2:00 A.M. He related the following to the detectives. He stated that he is currently employed by the XXXX Company and the company is based in Ohio, but he works from his residence in Michigan. Subject 1 stated that he had to fly to Dallas for business and drove his Tahoe to Chicago. Subject 1 arrived in the Chicago area at approximately 10:00 A.M. and he was to depart on a Spirit Airlines flight leaving at 4:50 P.M. Subject 1 stated that when he arrived in Chicago he "did his thing."<sup>77</sup> Subject 1 arrived at O'Hare airport at approximately 2:00 P.M. and parked his car in the parking lot. While Subject 1 was parked he checked his email account. Subject 1 stated he viewed an email that was not meant to be sent to his account. Subject 1 stated the email said he was going to be terminated from his job and the email was very insulting to him.

Subject 1 exited the parking lot and drove eastbound on Interstate 90. Subject 1 stated while he drove from the airport he believed that he was being followed by several different cars. Subject 1 stated that he believed his work sent the vehicles to follow him. Subject 1 stated that he recalled exiting the expressway and later recalled hitting several parked cars. Subject 1 further stated he recalled citizens attempting to stop him from driving by standing in the street. Subject 1 also recalled seeing flashing lights of police cars behind him. Subject 1 stated he knew the police were coming after him. Subject 1 related that he observed the police approach his vehicle and that he "tried to get the hell out of there." Subject 1 stated, "in a strategic move I tried to get away from the police but they were in the way." Subject 1 also stated that he heard the police yelling at him to stop as he attempted to drive off. Subject 1 stated the police then shot him. Subject 1 then indicated that his vehicle crashed and he was pulled out of the car and placed on the ground.

Civilian witness **Civilian 3** was interviewed and related to the detectives that just before midnight on June 10, 2014, he was with his friend Civilian 2 watching television. He heard a noise and looked out the window to the southwest corner of North Avenue and Hoyne Avenue. Civilian 3 related that he saw a black SUV on the southwest corner facing north and a tow truck east of the SUV and police cars to the west of the SUV. Civilian 3 related that the driver<sup>78</sup> of the vehicle was a white male who was reaching into the back seat while also reaching to the right of the vehicle. Civilian 3 related that it appeared one officer was trying to communicate with the driver and that the officers had their weapons drawn. According to Civilian 3, he saw one officer apply pepper spray on the driver's side of the black SUV. He stated that then the driver went crazy and threw

<sup>77</sup> Subject 1 did not explain what he meant by this phrase.

<sup>78</sup> Now known as Subject 1

his clothes out the window, after which the driver drove the SUV into the grocery store<sup>79</sup> below his apartment.

The driver then put the vehicle in reverse and did a three-point turn. Then the SUV accelerated at the officers on the southwest corner of North Avenue and Hoyne Avenue. Then an officer on the southeast corner of North Avenue and Hoyne Avenue started firing his gun at the SUV as it accelerated toward officers on the southwest corner of North Avenue and Hoyne Avenue. Civilian 3 related that there was at least one officer, maybe more, on the southwest corner of North Avenue and Hoyne Avenue when the driver of the SUV approached. Civilian 3 related that the SUV then hit a bike rack or pole which stopped the SUV on the southwest corner of North Avenue and Hoyne Avenue. The tow truck then blocked the SUV. The officers then approached the driver of the black SUV.

Civilian witness **Civilian 2** was interviewed by the detectives. Civilian 2 stated that he was with his friend Civilian 3. Civilian 2 related he heard an unfamiliar noise. Civilian 2 related that he saw a black SUV on the southwest corner of North Avenue and Hoyne Avenue. Civilian 2 observed about four officers with their guns drawn on the driver's side of the black SUV. Civilian 2 related the driver of the SUV was reaching for something in the SUV. Civilian 2 heard one officer say, "put your hands on the steering wheel" but the driver did not listen. The driver was still reaching for something in the back of the SUV and then threw clothes out of the SUV. Civilian 2 related that the officer was tapping the driver side rear window and then the passenger side window with his night stick. Civilian 2 related that the driver of the SUV then put the SUV in drive. The driver of the SUV maneuvered the black SUV between the tow truck and a police SUV. Civilian 2 related that the driver of the SUV accelerated towards the building and hit a pole and a trash can.

The driver then reversed and did a three-point turn or "K turn". The black SUV was backing up eastbound. Civilian 2 related he saw two officers to the west and one officer to the east by the restaurant. Civilian 2 related that the driver of the black SUV accelerated toward the southwest corner of North Avenue and Hoyne Avenue. Civilian 2 related that a female officer had to get out of the way. Civilian 2 related that the officer in front of the mid-eastern restaurant on the southeast corner of North Avenue and Hoyne Avenue opened fired with four to five gunshots at the black SUV as it accelerated at a high rate of speed toward the southwest corner of North Avenue and Hoyne Avenue. Civilian 2 related that if the officers did not move they would have been hit by the black SUV.

Civilian witness **Civilian 1** was interviewed and related to the detectives that on the date in question he was with his wife driving his tow truck eastbound on North Avenue at Leavitt Street. He was asked by a crowd of people to stop a vehicle that was driving erratically. Civilian 1 drove in front of the black Yukon and tried to block the Yukon with his tow truck. Civilian 1 was positioned on one side of the Yukon truck and two squad cars were positioned on the other side of the Yukon truck. Civilian 1 related that the officers approached the Yukon truck and ordered the driver<sup>80</sup> out the truck. The driver did not listen and the driver of the Yukon floored it across the street and hit a pole. Civilian 1 related that the black Yukon then reversed and did a three-point

<sup>79</sup> The vehicle never entered the store, it hit items in front of the store

<sup>80</sup> Now known as Subject 1

turn and then floored the Yukon towards the police officers at the intersection of North Avenue and Hoyne Avenue. At that point, the officers began to shoot at the Yukon. Civilian 1 related that he thought the driver of the Yukon was going to kill two officers on the corner of North Avenue and Hoyne Avenue.

Civilian witness **Civilian 8** was interviewed by detectives and related that she was working with her husband, Civilian 1, in his tow truck when people started to flag down the tow truck. Civilian 8 related that her husband tried to stop the Yukon and he got in front of the Yukon at North Avenue and Hoyne Avenue. Civilian 8 related that she called 911 because the Yukon was driving erratically. Civilian 8 related that the officers were behind the Yukon and the officers had their guns drawn and ordered the driver out of the Yukon. She stated that the officers told the driver of the Yukon to put his hands up and to stop the car. Civilian 8 related that the Yukon was between the tow truck and the police car. The Yukon then drove across North Avenue and struck a pole. Civilian 8 related that the Yukon did a three-point turn and was facing west on North Avenue. She stated that the Yukon drove towards the police officers and she was scared that the officers were going to get hit by the Yukon. Civilian 8 reiterated that anyone in the area was in danger of getting hit by the Yukon, and that she thought the driver of the Yukon was going to kill officers with his driving.

Civilian witness **Civilian 4**, related to the detectives that he was working on his computer just before midnight on June 10, 2014, when he heard a commotion outside. Civilian 4 related that he saw a black Yukon on the corner facing eastbound on North Avenue. Civilian 4 related that he could see the front half of the Yukon on the passenger side. He also saw a female officer with her gun drawn in the south crosswalk of North Avenue. Civilian 4 related that the female officer was pointing her gun at the black Yukon. He heard a female voice yelling "get your hands on the steering wheel". He related he could not see the driver of the Yukon. Civilian 4 related that he observed the Yukon "make a cut" after it made contact with the tow truck and drove into a grocery store<sup>81</sup> across the street. Civilian 4 related that before the Yukon hit the grocery store, it struck a garbage can, bus stop, and newspaper stand. Civilian 4 related the female officer was still in the crosswalk area on the south side of North Avenue. He heard the Yukon's engine revving and then the Yukon drove towards his building. Civilian 4 related the black Yukon drove towards the southwest corner at North Avenue and Hoyne Avenue. He heard acceleration and then he heard a gunshot. Civilian 4 related when he heard the gunshot he fell to the floor. Civilian 4 related he heard more gunshots. He did not look back out the window until he heard sirens, at that point the suspect was on the ground, handcuffed and surrounded by Officers.

Civilian Witness **Civilian 5** related to the detectives that he was in his 3<sup>rd</sup> floor apartment and he heard noise outside. He heard someone yelling "show me your hands!" Civilian 5 related he saw a blonde haired female officer with her gun drawn giving directions toward the southwest corner of North Avenue and Hoyne Avenue. Civilian 5 related that the black SUV started moving quickly from the southwest corner of North Avenue and Hoyne Avenue and drove into the building on the north side of North Avenue. Civilian 5 related the female officer moved to the middle of the street yelling commands. The black SUV began to back up and did a three-point turn. Civilian 5 related that the black SUV then moved quickly towards the southwest corner of North Avenue and Hoyne Avenue. He related that the vehicle sped up in the direction of the officer. Civilian 5

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<sup>81</sup> The vehicle never entered the store, it struck items in front of the store

related that the female officer moved back and away towards the restaurant on the southeast corner of North Avenue and Hoyne Avenue. He then heard gunshots and saw the SUV crash. Civilian 5 related that he heard a male officer yelling “hands, hands” and the male officer moved in to break the glass of the black SUV. The female officer moved toward the black SUV.

Sworn member witness **Sergeant B** related to detectives that he was working the third watch in the 14<sup>th</sup> district on June 10, 2014. He related that at 9:30 P.M. a white male approximately 40 years old entered the district and wanted to talk in private. Sergeant B related the male appeared paranoid and said he needed protection and was being followed. When the Sgt. asked the man for an identification card, the man became agitated and asked Sergeant B for his identification card. The male left the station after asking for Sergeant B’s identification. This male was later determined to be Subject 1 by a lineup photo viewed by Sergeant B.<sup>82</sup>

#### 4. Illinois Traffic Crash Reports

Three **Illinois Traffic Crash Reports** were generated as part of this incident. The first traffic crash report is documented under RD#HX2XXXXX. The report lists Subject 1’s vehicle as Unit 1 and lists a 1995 Buick Lesabre at Unit 2. According to the narrative, Unit 1 was driven by Subject 1 eastbound on Lemoyne when it rear-ended unit 2. Unit 2 was parked and unoccupied. Unit 1 fled northbound on Leavitt and became involved in another traffic crash recorded under RD#HX2XXXXX.<sup>83</sup>

The second crash report is documented under RD#HX2XXXXX. The report lists Subject 1’s vehicle as Unit 1. Unit 2 is listed as a 2000 Nissan Quest, Unit 3 is listed as 1999 Chevy Suburban, Unit 4 is listed as a 2001 GMC 1500, and Unit 5 is listed as a 1993 Chevrolet Cavalier. According to the narrative, Unit 1 was leaving the scene of a prior traffic crash traveling northbound on Leavitt when it struck the sides of Units 2 & 3, which were both parked and unoccupied. When witnesses attempted to stop Unit 1, Subject 1, Unit 1 reversed and then drove forward and struck Unit 4. Unit 1 continued to drive northbound on Leavitt and struck Unit 5 and continued eastbound on North Avenue.<sup>84</sup>

The third crash report is documented under RD#HX29XXXX. The report lists Subject 1’s vehicle as Unit 1. According to the report narrative, Unit 1 struck a bus stop sign and then a fire hydrant.<sup>85</sup>

### V. ANALYSIS

The use of deadly force by Officer A and Officer B against Subject 1 was objectively reasonable under the totality of the circumstances, and, therefore, within the bounds of CPD policy as outlined by the CPD Deadly Force General Order 03-02-03, II. Furthermore, Officer A and Officer B’s use of force also complied with the applicable Illinois law and United States law.

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<sup>82</sup> Att. 129

<sup>83</sup> Att. 159

<sup>84</sup> Att. 160

<sup>85</sup> Att. 179

Accordingly, the relevant question is whether a reasonable officer in Officer A's and Officer B's position would have believed the use of deadly force was necessary to prevent death or great bodily harm.<sup>86</sup> COPA applies the same analysis to all of Officer A's four shots, as well as Officer B's one shot. COPA makes its factual and legal determinations using a preponderance of the evidence standard. A proposition is proved by a preponderance of the evidence when it is found to be more probably true than not. *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005). A preponderance of evidence shows that Officer A and Officer B reasonably believed that deadly force was necessary to prevent death or great bodily harm to other officers and civilians.

COPA finds Officers A's and B's statements regarding the incident credible. Officer A's and Officer B's statements were generally consistent with the statements of the other officers at the scene and were generally corroborated by the statements of independent civilian witnesses, video evidence, the physical evidence, and Subject 1's own statement to CPD detectives. As outlined below, COPA finds that it is more likely than not that Subject 1 presented an imminent threat of death or great bodily harm to officers on the scene and additional civilians when he failed to follow verbal commands and began to drive his vehicle in the direction of officers and civilians on the southwestern corner of North Avenue and Hoyne Avenue.

**a. Officers A and B observed Subject 1 act irrationally and drive erratically when confronted by multiple police officers.**

Officers A and B arrived to the scene to respond to a traffic accident that had been upgraded to a battery in progress.<sup>87</sup> Officer A and Officer B did not have any other preexisting knowledge about the black SUV or the driver, Subject 1, at this time. However, Officers A and B subsequently observed Subject 1 act and drive in an irrational and erratic manner when confronted by the CPD officers.

Officer A and Officer B continuously observed Subject 1 ignore multiple verbal commands from the officers at the scene including orders for Subject 1 to "show his hands," "stop the vehicle," and "get out of the vehicle." A number of civilian witnesses also specifically recalled the officers providing commands to Subject 1 and Subject 1 continuously refusing to comply.

The officer and civilian statements and video footage also establish that responding officers first attempted to use non-deadly force options on Subject 1. Officers A and B observed Officer F break the driver's side window of Subject 1's vehicle in an attempt to gain access to Subject 1.<sup>88</sup> After the driver's side window was broken out, Subject 1 placed a towel or a white t-shirt over his face and continued to make erratic movements inside of the vehicle. The officers were unable at that time to gain physical access to Subject 1, and Subject 1 continued to refuse to comply with

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<sup>86</sup> The version of General Order 03-02-03 in effect on June 10, 2014, separately addressed firing at or into a moving vehicle in subpart (II)(B). The standard for firing at or into a moving vehicle mirrored prong 1 of the use of deadly force generally, subpart (II)(A)(1) of General Order 03-02-03, but required sworn members to move out of the vehicle's path when the oncoming vehicle is the only force used against them.

<sup>87</sup> Officers C and D were the first officers to respond to the scene. Officers E and F also responded.

<sup>88</sup> The door handles on Subject 1's vehicle were missing, likely from the multiple crashes he caused during his travel. The windows of Subject 1's vehicle were also tinted, which hindered the officers' ability to view Subject 1.

commands.<sup>89</sup> Subsequently, Officer A discharged his OC spray into the vehicle at Subject 1 in an attempt to gain physical control over Subject 1. Subject 1 did not comply; rather Subject 1 continued to swear at the officers and threw food, clothing, and other items outside of his vehicle in the direction of the officers. Officer A attempted a second time to spray Subject 1 with his OC spray, which appeared to have more of an effect on Subject 1, but not enough to get Subject 1 to comply by exiting the vehicle or showing his hands. The officers could see Subject 1 attempting to get the SUV into the drive gear, and according to Subject 1 himself, he was “trying to get the hell out of there.” Officer A stated that Subject 1 continued to yell at the officers, “I’m gonna XXXX you up, XXXX you.” Officer A then requested a taser from his fellow officers, but none of the officers at the scene were in possession of a Taser.

Although a police vehicle, as well as a civilian tow truck attempted to pin Subject 1’s vehicle into a secluded area on the southwest corner of North Avenue and Hoyne Avenue, Subject 1 was able to maneuver his vehicle through a small gap between the police vehicle and the civilian tow truck. With officers and civilians standing around the corner of North Avenue and Hoyne Avenue, Subject 1 accelerated his vehicle across all lanes of traffic to the north side of North Avenue towards a small grocery store called “Go Grocer.” Subject 1 narrowly missed striking the store itself, but instead crashed into multiple newspaper boxes, garbage cans and a Chicago Transit Authority pole. At the time that Subject 1 crashed his vehicle into the items in-front of “Go Grocer,” multiple officers again attempted to surround the vehicle and order Subject 1 out of the vehicle.

Specifically, Officer A transitioned to his firearm from his OC spray and approached the SUV while on the southwest corner of Hoyne Avenue and North Avenue in front of “Go Grocer.” Officers continued to order Subject 1 to show his hands and exit the vehicle. Subject 1 continued to move around erratically inside the vehicle and continued to attempt to manipulate the gear shift. Subject 1 was then able to quickly reverse his vehicle back onto North Avenue, conducting a three-point turn with his vehicle facing due west towards multiple officers and civilians who were standing near the southwest corner of Hoyne Avenue and North Avenue where the initial dispute with the officers began. The video footage shows that Officer A moved quickly near the front-left bumper of the SUV, to avoid Subject 1’s turn and paralleled the vehicle onto the street. Officer A managed to stay on the driver’s side of the vehicle, viewing Subject 1’s every move while Officer B remained closer to the north side of North Avenue.

Subject 1’s conduct provides sound material context to Officer A’s and Officer B’s subsequent decision to discharge their firearms at Subject 1’s SUV. Specifically, Officers A’s and B’s observations would lead an objectively reasonable officer to conclude that Subject 1 was extremely dangerous and would continue to drive an extremely reckless manner. Officers A and B personally observed Subject 1 make two extremely dangerous and reckless driving maneuvers that demonstrated Subject 1’s complete disregard for the safety of others. Furthermore, as explained above, Officers A and B also directly observed Subject 1 act erratically, disregard lawful police orders, evade arrest, and demonstrate overt hostility towards the officers through his continued use of profanities. Subject 1’s level of resistance would lead a reasonable officer to

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<sup>89</sup> The video footage shows an officer attempting to puncture the SUV’s wheels in an apparent attempt to disable the vehicle. It is unclear from the video footage whether the SUV’s tires were successfully punctured, but the SUV appears to remain operational throughout the remaining part of the incident.

conclude that Subject 1 was unlikely to peacefully surrender and would continue to drive an extremely reckless manner to escape. Under these circumstances, Officers A and B were justified to be on heightened alert.<sup>90</sup>

**b. Subject 1 presented an imminent risk of death or great bodily harm to CPD officers and civilian bystanders at the time Officers A and B discharged their firearms.**

After reversing from Go Grocer, Subject 1's SUV was in the middle of North Avenue, facing west in the direction of multiple officers and civilians. Officer A fired four times at Subject 1 from the southeast corner of Hoyne Avenue and North Avenue while he was on the driver's side of Subject 1's vehicle. While facing the passenger's side of Subject 1's vehicle, Officer B fired one time from the middle of North Avenue while Subject 1 was turning his vehicle slightly in a southwesterly direction. Both Officer A and Officer B asserted that they discharged their weapons at Subject 1 to prevent death or great bodily harm to other officers and civilians who were directly in the path of Subject 1's vehicle as he began driving west.

COPA finds that all of Officers A's and B's shots were objectively reasonable. COPA finds that Officers A's and B's belief that Subject 1 posed an imminent risk of death or great bodily harm was objectively reasonable under the circumstances.

After reversing from Go Grocer, Subject 1's SUV was in the middle of North Avenue, facing west in the general direction of towards multiple officers and civilians. Subject 1 subsequently placed his vehicle into drive and began to accelerate west with a slight southwesterly direction towards Officers C and D and civilians. Subject 1 ultimately crashed into a fire hydrant on the southwest corner of North Avenue and Hoyne Avenue after all five shots had been fired.

The exact timing of each of Officers A's and B's shots is not entirely clear. The video footage appears to show that Officer A fired his first shot slightly before Subject 1 began to accelerate his SUV. Officer A indicated during his interviews that he "believed" Subject 1's vehicle was moving prior to any shots being fired, but also indicated that he chose to fire because he had a "clear view of the offender...[and] he appeared to be getting ready to, [sic] traveling again from the scene." Nonetheless, the video appears to show near simultaneous movement from the vehicle as the first shot was fired, and, multiple officers and eyewitnesses indicated that Subject 1 revved the engine and/or struck the gas pedal indicating that he was going to be accelerating forward in the vicinity of the southwest corner where numerous officers and civilians were located. The video footage clearly shows that the SUV's brake lights and reverse lights were off at the time Officer A fired his first shot which further corroborates that, at a minimum, Subject 1 had at least shifted the vehicle into the drive gear and removed his foot from the brake. The evidence demonstrates that Officer A and Officer B discharged the rest of their shots after Subject 1's SUV began to accelerate in relatively quick succession.

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<sup>90</sup> Although not expressly referenced by Officers A and B in their statements to IPRA, an objectively reasonable officer would also take into account that Subject 1's vision was likely impaired by the OC Spray, increasing the risk he posed to the public.

The video footage and civilian testimony corroborates that other officers and civilian bystanders were in the general vicinity of the direction Subject 1's SUV near the southwestern corner of North Avenue and Hoyne Avenue. Although it is not entirely clear that the other officers and civilians would have ultimately been hit by Subject 1's SUV or could not have moved out of the way, Officers A and B were required to make split-second judgments in circumstances that were tense, uncertain, and rapidly evolving. *Garner*, 490 U.S. at 396-97. The reasonableness of Officer A's and Officer B's belief that Subject 1 posed an imminent risk of death or great bodily harm to the CPD officers and civilians standing at or near the southwest corner North Avenue and Hoyne Avenue is bolstered by the multiple civilian witnesses such as Civilian 3 and Civilian 6 who also believed that Subject 1's SUV posed an imminent risk to the CPD officers and civilian bystanders. Indeed, all of the civilian witnesses interviewed expressed serious concerns about Subject 1's erratic driving endangering the safety of people near the street.

Importantly, Officers A and B fired their weapons only after exhausting all available non-deadly force options. None of the less lethal force options methods worked against Subject 1, and Subject 1's previous actions indicated that he would drive with a complete disregard for the safety of others. Given the totality of the circumstances, Officers A and B reasonably believed deadly force was necessary to prevent death or great bodily harm to multiple officers and civilians. COPA finds that it is objectively reasonable that after Officers A and B saw Subject 1 on two other occasions attempt a rapid, uncontrolled acceleration across all lanes of traffic, with complete disregard for the safety of officers and civilians, that Subject 1 would do the same a third time as his vehicle was pointed towards multiple officers and civilians. Under the totality of the circumstances confronting Officers A and B, they were left with no other means to prevent what they reasonably believed would result in death or great bodily harm if Subject 1 was able to continue to accelerate towards the officers and civilians on the southwest corner. While some may legitimately question the efficacy of firing at or into a moving vehicle, at the time of this incident CPD General Order 03-02-03 did not prohibit it and relevant legal authorities have found firing at or into a moving vehicle when a suspect's reckless driving puts others at risk to be reasonable. *See, e.g., Plumhoff v. Rickard*, 134 S. Ct. 2012, 2018-20 (2014) (holding that the officers acted objectively reasonably when they fired a total of fifteen shots at a fleeing vehicle during a high speed chase). Finally, Officer A and Officer B stopped discharging their firearms once Subject 1's vehicle crashed into a fire hydrant and was no longer a threat.

## VI. CONCLUSION

COPA finds that an officer with similar training and experience as Officer A and Officer B would reasonably believe that Subject 1 posed an immediate threat of death or serious bodily harm to officers and civilians standing on the southwest side of North Avenue and Hoyne Avenue under the totality of the circumstances confronting Officers A and B. Therefore, COPA finds that the use of deadly force by Officer A and Officer B was objectively reasonable under Chicago

Police Department's General Order 03-02-03, Illinois law, and the Fourth Amendment to the United States Constitution.<sup>91</sup>

Approved:

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Chief Administrator A  
*Chief Administrator*

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Date

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<sup>91</sup> The Chicago Police Department General Order 03-02-03 has been amended two times since this incident including adding a prohibition on firing at or into a moving vehicle with limited exceptions. This report does not address whether Officer A's and Officer B's use of deadly force would be justifiable under subsequent versions of General Order 03-02-03.

**Appendix A**

## Assigned Investigative Staff

<b>Squad#:</b>	XX
<b>Investigator:</b>	COPA Investigator A
<b>Supervising Investigator:</b>	COPA Supervising Investigator A
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator A